
**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MISSOURI**

IN RE:

417 RENTALS, LLC

Debtor.

Case No. 17-60935
Chapter 11

**GUARANTY BANK’S MOTION FOR RELIEF FROM STAY OR
ALTERNATIVELY FOR ADEQUATE PROTECTION**

Comes Now Movant Guaranty Bank, by and through undersigned counsel of record, and for its Motion for Relief from Stay or Alternatively for Adequate Protection hereby states to the court as follows:

1. On or about August 25, 2017 (hereinafter “Filing Date”) Debtor voluntarily filed a Petition for Relief under Chapter 11 of the U.S. Bankruptcy Code and is now operating its business as a debtor-in-possession.
2. This court has jurisdiction to hear this proceeding under the provisions of 28 U.S.C. Sections 1334 and 157.
3. This motion is filed pursuant to 11 U.S.C. Section 362 and Rule 4001 of the Bankruptcy Rules.
4. Venue is proper under 28 U.S.C. Sections 1408 and 1409.
5. This is a core proceeding under 28 U.S.C. Section 157 (b).
6. Christopher E. Gatley (hereinafter “Mr. Gatley”) is believed to be the sole Member of the Debtor.

7. The Debtor, as borrower, has five (5) loans with Movant which are as follows:

- (A) A promissory note dated August 25, 2014 in the original principal amount of \$529,117.70 (hereinafter "Loan No. 0938"), payment of which is secured by a Deed of Trust dated August 25, 2009 granted by Debtor constituting a first lien and encumbrance upon certain real property described therein. Copies of said promissory note and Deed of Trust are attached hereto, marked Exhibits "A" and "B," respectively, and incorporated herein by reference. As of the Filing Date, after all applicable credits, Loan 0938 had an outstanding balance of \$495,944.19, consisting of \$492,154.38 in principal, \$1,327.76 in accrued interest, \$2,402.05 in late charges and \$60.00 in release fees.
- (B) A promissory note dated February 26, 2015 in the original principal amount of \$474,295.62 (hereinafter "Loan No. 8909"), payment of which is secured by a Deed of Trust dated February 26, 2010 granted by Debtor constituting a first lien and encumbrance upon certain real property described therein. Copies of said promissory note and Deed of Trust are attached hereto, marked Exhibits "C" and "D," respectively, and incorporated herein by reference. As of the Filing Date, after all applicable credits, Loan 8909 had an outstanding balance of \$437,874.94, consisting of \$433,218.49 in principal, \$1,587.35 in accrued interest, \$2,484.10 in late charges and \$60.00 in release fees.
- (C) A promissory note dated April 17, 2013 in the original principal amount of \$382,000.00 (hereinafter "Loan No. 9052"), payment of which is secured by

a Deed of Trust of even date therewith granted by Debtor constituting a first lien and encumbrance upon certain real property described therein. Copies of said promissory note and Deed of Trust are attached hereto, marked Exhibits “E” and “F,” respectively, and incorporated herein by reference. As of the Filing Date, after all applicable credits, Loan 9052 had an outstanding balance of \$365,392.38, consisting of \$361,451.36 in principal, \$2,009.82 in accrued interest, \$1,871.20 in late charges and \$60.00 in release fees.

(D) A promissory note dated December 4, 2014 in the original principal amount of \$460,620.09 (hereinafter “Loan No. 8881”), payment of which is secured by a Deed of Trust dated December 4, 2009 granted by Debtor constituting a first lien and encumbrance upon certain real property described therein. Copies of said promissory note and Deed of Trust are attached hereto, marked Exhibits “G” and “H,” respectively, and incorporated herein by reference. As of the Filing Date, after all applicable credits, Loan 8881 had an outstanding balance of \$427,053.06 consisting of \$425,456.61 in principal, \$1,116.14 in accrued interest, \$420.31 in late charges and \$60.00 in release fees.

(E) A promissory note dated December 13, 2013 in the original principal amount of \$460,000.00 (hereinafter “Loan No. 9140”), payment of which is secured by a Deed of Trust dated December 13, 2013 granted by Debtor constituting a first lien and encumbrance upon certain real property described therein. Copies of said promissory note and Deed of Trust are attached hereto, marked Exhibits “I” and “J,” respectively, and incorporated herein by

reference. As of the Filing Date, after all applicable credits, Loan 9140 had an outstanding balance of \$436,853.90 consisting of \$435,357.16 in principal, \$604.54 in accrued interest, \$832.20 in late charges and \$60.00 in release fees.

8. As of the Filing Date, all of the Loans were in default except for numbers 8881 and 9140 which have since gone into default as well.

9. Upon information and belief, at some time prior to the Filing Date Mr. Gatley improperly conveyed to Debtor, without consideration, certain real property subject to a first deed of trust granted by B&T Sims Properties, LLC (hereinafter “B&T”) and held by Movant which secured payment of a certain promissory note of B&T, subsequently assumed in writing by Mr. Gatley personally, which is now in default. A true and correct copy of the B& T Deed of Trust is attached hereto, marked Exhibit “K,” and incorporated herein by reference.

10. The real property described in Exhibits B, D, F, H, J and K are hereinafter collectively referred to as the “Collateral Property,” and consists of fifty-one (51) parcels used by Debtor as income producing rental properties.

11. Debtor has executed in favor of Movant multiple Assignments of Rents and Leases which collectively subject all or virtually all of the Collateral Property. Authentic copies of said Assignments of Rents and Leases are attached hereto, marked Exhibits “L,” “M,” “N,” “O,” “P” and “Q,” respectively, and are incorporated herein by reference.

12. Debtor is continuing to use the Collateral Property and such use results in the depreciation of the value of the property.

13. The Collateral Property also continues to generate rental income from the use thereof

which should be more than adequate to service the indebtedness owed to Movant in accordance with contractual terms.

14. As indicated in Movant's proofs of claim, Movant estimates that the tracts constituting the Collateral Property are worth a combined \$3,055,000.00 (exclusive of the property securing the B&T Deed of Trust). However, Movant contends that the foregoing value is not significantly greater than the total indebtedness owed by the Debtor.

15. Simply by virtue of the passage of time during the pendency of this proceeding it is necessary to maintain an equilibrium between the value of the Collateral Property and the amount of the total debt owed by Debtor. For this reason Movant asserts that it must either be granted recourse to the Collateral Property or adequate protection must be ordered paid by the Debtor in order to preserve and maintain Debtor's equity in the Collateral Property and to assure that the value of Movant's secured position does not diminish.

16. Movant does not now have adequate protection for its security interest in the Collateral Property and Debtor has made no offer of same.

17. If Movant is neither granted relief from the stay nor adequate protection it will suffer irreparable loss and damage.

18. Movant is entitled to either relief from the stay or adequate protection and requests an order of the court granting either form of such relief so as to protect and maintain Movant's secured interest in the Collateral Property.

WHEREFORE, Guaranty Bank prays that the court enter an order lifting the stay or conditioning use of the Collateral Property and compelling Debtor to make such payments to Movant as are necessary to adequately protect its security interest, and for such other and further relief as the court deems just.

MANN, WALTER, BISHOP & SHERMAN, P.C.

By: /s/ Gary E. Bishop

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ATTORNEYS FOR GUARANTY BANK

CERTIFICATE OF MAILING

The undersigned hereby certifies that the above and foregoing was filed with the U.S. Bankruptcy Court using the Electronic Filing System and mailed, U. S. Mail, postage prepaid this 28th day of September, 2017, to the following:

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